

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

SUMMARY OF DECISION

ADMINISTRATIVE REVIEW—PERSONAL WIRELESS SERVICE FACILITY

File: ZON05-00021

Project Name: 4- New Verizon Whip Antennas on the Park Place Roof

Applicant: Andy King, The Meridian Group for Verizon Wireless

Project Planner: Susan Greene

Date: August 23, 2005

Decision: Denied
 Approved with the following conditions:

I. CONDITIONS OF APPROVAL

- A. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances.
- B. The GPS antenna and it's associated structures and any visible mounting brackets and/or cables shall be painted to match the building façade color.
- C. The maximum area for equipment structures is 240 square feet and the maximum height is 10 feet.
- D. No guy or other support wires shall be used in connection with antennas, antenna arrays or support structures except when required by the UBC to anchor the antennas, antenna arrays or support structures (KZC Section 117.30.10.j).
- E. The proposed equipment structure shall comply with the noise standards found in KZC Section 117.30.7.c & 115.95.
- F. KZC Section 117.45.14 requires that propagation maps be provided showing that the antennas are required for present and future network coverage in order to satisfy the requirements of the provider's grid system.
- G. All antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Federal Government with the authority to regulate antennas. If such standards and regulations are changed, then the owners of the antennas governed by this chapter shall bring such antennas into compliance with such revised standards and regulations in accordance with the compliance deadlines and requirements of such standards and regulations. Failure to bring antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the antenna at the owner's expense (KZC 117.30.8).

- H. In the event the use of any antenna will be discontinued for a period of 60 consecutive days, the owner or operator shall so notify the City in writing, and the tower or antenna shall thereafter be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which shall have the right to request documentation and affidavits from the antenna owner or operator regarding the issue of antenna usage. Upon such abandonment, the owner or operator of the antenna or the owner of the property upon which such facility is located shall have an additional 60 days within which to:
- a. Reactivate the use of the antenna or transfer the antenna to another owner or operator who makes actual use of the antenna; or
 - b. Dismantle and remove the antenna. If such antenna is not removed within said 60 days from the date of abandonment, the City may remove such antenna at the facility owner's and property owner's expense.
- At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the antenna shall automatically expire.
- I. Prior to issuance of a building permit or right-of-way permit, the applicant shall:
1. Register with the City Clerk as required by Kirkland Municipal Code Section 26.08 and Zoning Code Section 117.45.1 and submit a copy of the registration along with the submittal of a building permit or right-of-way permit for the wireless facility (see Attachment 1).
 2. Submit a completed Personal Wireless Service Facility (PWSF) facility annual report form for the proposed facility to the Planning Department (see Attachment 2).

II. GENERAL INFORMATION

- A. Site Location: 401 Park Place (see Attachment 3).
- B. Existing Site Conditions: The five story office building sits within Park Place Center, retail, outdoor mall and office building mixed use development.
- C. Description of Proposal: Verizon Wireless is proposing to place 4 whip antennas on the roof of a five story office building within a retail setting. There will be associated equipment placed within an existing mechanical penthouse and a GPS antenna mounted to the side of the penthouse (see Attachment 4 for applicant proposal):
1. Antennas: The applicant is proposing to install 4 omni-directional antennas or whip antennas which are no more than 15 feet high and no more than 4" in diameter located on a building rooftop. The antennas will be painted sky blue to match the background behind them.
 2. Equipment Structure: The equipment structures will be housed within an existing mechanical penthouse on the roof. The power source will be within the building.
 3. Screening: The applicant is proposing the following screening technique(s):
 - Solid sight obscuring fence
 - Landscape buffer that at a minimum complies with Kirkland Zoning Code (KZC) 95.25(3)
 - Rooftop mechanical screen architecturally compatible with the building
 - No screening is proposed since the wireless facility is located within a building
 - Paint to match wall or mechanical screen
 - Other – Paint antennas sky blue to match the sky.
- D. Zoning: Central Business District 5 (CBD5) zoning district. The site is located in a non-residential zone as defined in KZC Section 117.05.9 and 11.

III. COMPLIANCE WITH ZONING CODE CHAPTER 117

Wireless facilities that can be approved through the administrative process are facilities have very minimal visual and physical impacts on the surrounding neighborhoods given the zoning and type

of facility. The following is a review, in a checklist format, of the regulations in KZC Chapter 117 as it pertains to wireless facilities qualified for the administrative review process.

Not Applicable	Complies	Condition to be added	Code Section
			WIRELESS FACILITIES – ANTENNAS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed whip antennas located on an existing 5-story rooftop is architecturally compatible as much as can be with the surrounding buildings and land uses and blends in with the existing characteristics of the site (KZC Section 117.30.2).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Attachment of antennas to existing structures in non-residential zones: Whip antennas may exceed the structure height by a maximum of 15 feet (KZC Section 117.20.a.2).
<input type="checkbox"/>			117.30.3 Concealment Technology.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Omni-directional antennas 15 feet or less above the roof. The proposed color is compatible with the roof, structure, or background (KZC Section 117.30.3.b). The four whip antennas and structure mount will be painted to match the sky in the background (see picture in Attachment 5)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Antennas other than omni-directional antennas. The proposal utilizes compatible color and architectural screening (KZC Section 117.30.3.b). A GPS antenna mounted to the penthouse façade should be painted to match that façade.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The applicant has chosen to paint the antennas, and the City has determined that, the proposed concealment techniques meet the criteria of 117.30.3.b. The applicant has chosen sky blue paint which should be adequate concealment since the sky is the backdrop for the antennas.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed antennas are integrated into the design of any existing or support structure to which they are attached. External projections from existing structure or support structure shall be limited to the greatest extent technically feasible (KZC Section 117.30.3.b). The proposed whip antennas will be mounted to a base structure and the base will be painted the same color as the antennas.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	For antennas mounted on one or more building facades, concealment technology shall consist of using color and materials such that the facility is architecturally compatible with the building. It shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted (KZC Section 117.30.3.c). The GPS antenna is mounted to the penthouse façade and will not extend above the façade. It should be painted to match the façade.

Not Applicable	Complies	Condition to be added	Code Section
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>			117.30.5 Views.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed wireless facility is located and oriented in such a way that view blockage is minimized. No views should be affected by the proposed antenna configuration.
<input type="checkbox"/>			117.30.10 Roof Mounted Antennas
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The roof mounted antennas are consolidated and centered on the roof to the maximum extent feasible and are not scattered (KZC Section 117.30.10.e). The whip antennas are configured together in a line and not scattered.
			WIRELESS FACILITIES - EQUIPMENT STRUCTURES
<input type="checkbox"/>			117.30.3 Concealment Technology.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The equipment structure is located within an existing rooftop mechanical penthouse. No screening is required (KZC 117.30.3.d.).
<input type="checkbox"/>			117.30.4 Setbacks.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed ground mounted personal wireless facility is located at least a distance equal to 100 percent of the antenna height from any property line adjacent to or across the street from a residential use or residential zone (KZC Section 117.30.4).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed ground mounted personal wireless facility is located at least 10 feet from any property line adjacent to or across the street from all uses or zones other than residential (KZC Section 117.30.4).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No setback is required (when located in a right-of-way).
<input type="checkbox"/>			117.30.7 Equipment Structures.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed equipment structure is compatible with the surrounding area in which it is located (KZC Section 117.30.7.a).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Equipment structures are oriented so that exhaust ports or outlets are pointed away from properties which may be impacted by noise (KZC Section 117.30.7.c).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed equipment structure complies with the noise standards found in KZC Section 117.30.7.c & 115.95.
<input type="checkbox"/>			EQUIPMENT STRUCTURES - RESIDENTIAL ZONE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed gross floor area of the equipment structure is not applicable in

Not Applicable	Complies	Condition to be added	Code Section
			this case since it is not in a residential zone. The maximum area for equipment structures is 240 square feet (KZC Section 117.30.7.b).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The volume of the proposed equipment structure is not applicable. The maximum volume of equipment structures is 500 cubic feet per provider in residential zones (KZC Section 117.20.a.3).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed height of the equipment structure is not applicable. The maximum height limit is 5 feet in residential zones (KZC Section 117.20.1.a.3).
<input type="checkbox"/>			EQUIPMENT STRUCTURES - NON-RESIDENTIAL ZONE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed gross floor area of the equipment structure is 42 square feet. The maximum area for equipment structures is 240 square feet (KZC Section 117.30.7.b).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed height of the equipment structure has not been proposed. The maximum height limit is 10 feet in non-residential zones (KZC Section 117.30.7.b).
<input type="checkbox"/>			117.30.10 Antennas and Equipment Structures On or Above a Structure
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	All appurtenances and screening (including personal wireless facilities) does not exceed 5% of the total roof area of a building and/or 5% of any façade of a building. The proposal will include a negligible amount of roof area. The antennas will be mounted to a structure which takes only 21 square feet of roof area on a roof with an approximate roof area over 6,000 square feet (KZC Section 117.20.2). There are no additional whip antennas on the roof.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Only omni-directional antennas may be roof mounted (KZC Section 117.30.10.b). The height of the proposed whip antenna is 15 feet. This meets the maximum height limit of 15 feet for whip antennas measured from the top of the roof (KZC Section 117.30.10.a).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The setback from the edge of the roof to the proposed whip antenna is at least 100 percent of the antenna height. The antenna height is 15 feet and the proposed set back from roofs edge is 15 feet (KZC Section 117.30.10.c).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The roof mounted antennas and equipment structures are incorporated into the pitched or stepped roof form, and do not appear as a separate penthouse or box (KZC Section 117.30.10.d).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	In no instance shall equipment structures, antenna and related equipment occupy more than 25% of the total roof area of a building (KZC Section 117.30.10.g). This code requirement would not apply to this application because the equipment penthouse is an existing structure for this building and the associated equipment will be within the structure.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	117.35 Landscaping/Buffering
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Landscaping, as described herein, shall be required to screen any ground

Not Applicable	Complies	Condition to be added	Code Section
			level features (such as an equipment structure), and in general soften the appearance of the site. The City may require any other form of concealment technology if it achieves the same degree of screening as the required landscaping. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's discretion, taking into consideration the site as built. If the antenna is mounted on an existing building, and the equipment structure is housed inside the building, landscaping shall not be required (KZC Section 117.35.1).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Existing vegetation shall be preserved or improved, and disturbance of the existing topography of the site shall be minimized, unless such disturbance will result in less visual impact of the site on the surrounding area (KZC Section 117.35.2).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Buffering of ground-mounted personal wireless facilities is proposed. Landscape buffer at a minimum shall comply with KZC 95.25(3), except all trees must be evergreen (KZC Section 117.35.3).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chain link, plastic, vinyl, or wire fencing is prohibited (KZC Section 117.35.4). The applicant is proposing. .
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	In the event that landscaping is not maintained at the required level, the City, after giving 30 days' advance written notice to the provider, may maintain or establish the landscaping and bill both the landowner and provider for such costs until such costs are paid in full (KZC Section 117.35.5).
			MISCELLANEOUS REQUIREMENTS
<input type="checkbox"/>			117.30.8 Federal Requirements.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	All antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Federal Government with the authority to regulate antennas. If such standards and regulations are changed, then the owners of the antennas governed by this chapter shall bring such antennas into compliance with such revised standards and regulations in accordance with the compliance deadlines and requirements of such standards and regulations. Failure to bring antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the antenna at the owner's expense (KZC 117.30.8).
<input type="checkbox"/>			117.30.10 Wireless Facility –Miscellaneous
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The property is not designated as a historic resource or community landmark as identified in the Comprehensive Plan (KZC Section 117.30.10.h).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No antennas shall cause localized interference with the transmission or reception of any other communications signals including but not limited to, public safety signals, and television and radio broadcast signals (see

Not Applicable	Complies	Condition to be added	Code Section
			Attachment 5) (KZC Section 117.30.10.i).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No guy or other support wires shall be used in connection with antennas, antenna arrays or support structures except when required by the UBC to anchor the antennas, antenna arrays or support structures (KZC Section 117.30.10.j).
<input type="checkbox"/>			117.40 Non-Use/Abandonment
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KZC 117.40.2 requires that the provider must confirm in writing to the City on an annual basis that the personal wireless service facility is still in use on a form to be provided by the City.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>KZC 117.40.3 requires that in the event the use of any tower or antenna will be discontinued for a period of 60 consecutive days, the owner or operator shall so notify the City in writing, and the tower or antenna shall thereafter be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which shall have the right to request documentation and affidavits from the tower or antenna owner or operator regarding the issue of tower or antenna usage. Upon such abandonment, the owner or operator of the tower or antenna or the owner of the property upon which such facility is located shall have an additional 60 days within which to:</p> <ol style="list-style-type: none"> a. Reactivate the use of the tower or antenna or transfer the tower or antenna to another owner or operator who makes actual use of the tower or antenna; or b. Dismantle and remove the tower or antenna. If such tower or antenna is not removed within said 60 days from the date of abandonment, the City may remove such tower or antenna at the facility owner's and property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. <p>At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the tower or antenna shall automatically expire.</p>
			117.45 Application Requirements
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.7 requires that the proposed antenna height and equipment structure size be the minimum necessary.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.9 requires a notarized letter signed by the applicant stating that the personal wireless service facilities will comply with all the applicable federal land state laws, including specifically FCC and FAA regulations, and all City codes (see Attachment 6).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.10 requires that a notarized letter signed by the applicant stating that the antenna usage will not interfere with other adjacent or neighboring transmission or reception communications signals (see

Not Applicable	Complies	Condition to be added	Code Section
			Attachment 6).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KZC Section 117.45.11 requires compliance with adopted noise standards.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.12 requires that the personal wireless services provider must demonstrate that it is licensed by the FCC, if required to be licensed under FCC (see Attachment 7).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.13 requires that the applicant or personal wireless service provider submit proof of a lease agreement with an FCC-licensed personal wireless services provider if such provider is required to be licensed by the FCC.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KZC Section 117.45.14 requires that propagation maps be provided showing that the antennas are required for present and future network coverage in order to satisfy the requirements of the provider's grid system.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.15 requires that if a site is within or adjacent to a residential zone, then a study shall be provided showing why alternative locations are not acceptable.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section 117.45.16 requires that the proposed facility be designed and will provide services primarily for residents of the City and/or visitors within the City limits.

IV. STATE ENVIRONMENTAL POLICY ACT (SEPA)

- SEPA is not required.
- SEPA is required. A Determination of Nonsignificance (DNS) was issued on. The Environmental Checklist, Determination, and additional environmental information are included as Attachment.

V. DEVELOPMENT REVIEW COMMITTEE

Additional comments and requirements placed on the project are found on the Development Standards Sheet, Attachment 8.

VI. FACILITY REGISTRATION

- A. Zoning Code Section 117.45.1 requires completion of a PWSF facility registration form prior to issuance of a building permit for the PWSF (see Attachment 1).
- B. Kirkland Municipal Code Section 26.08 requires that each telecommunications carrier register with the City Clerk. Prior to issuance of a building or right-of-way permit, the applicant shall provide the Building Department with proof that they have properly registered with the City Clerk.

VII. APPEALS AND JUDICIAL REVIEW

- A. APPEALS

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

Section 145.60 of the Zoning Code allows the Planning Director's decision to be appealed by any affected party. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., August _____, fourteen (14) calendar days following the date of the Administrative Decision.

B. JUDICIAL REVIEW

Section 145.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

VIII. APPENDICES

Attachments 1 through 8 are attached.

1. Registration Form
2. (PWSF) Facility Annual Report Form
3. Vicinity Map
4. Applicant's proposal
5. Photo simulation
6. Statement of no interference/compliance statement
7. FCC license
8. Development Standards

IX. PARTIES OF RECORD

Applicant: Andy King, The Meridian Group, 1910 North 41st St. Seattle, WA 98103
Department of Planning and Community Development
Department of Public Works
Department of Building and Fire Services